

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:10cv109

CASEY RAY SILVERS,)
)
 Plaintiff,)
)
 vs.)
)
CITY OF ASHEVILLE,)
)
 Defendant.)

ORDER

THIS MATTER is before the Court on the parties' Stipulation of Retirement Contribution Value [Doc. 24].

On September 27, 2011, the parties appeared at a hearing before the Court to address the Defendant's pending Motion for Summary Judgment [Doc. 16]. During the hearing, the Plaintiff, who appears in this matter pro se, advised the Court that the only reason he initiated this action was to force the Defendant to follow through with the payment of the present value of the retirement contribution which it promised to pay pursuant to the March 2, 2007 Agreement executed by the parties. The Defendant represented to the Court through counsel that the City agrees that it should pay to the Plaintiff the

present value thereof, and stipulates to the jurisdiction of this Court to require such. The Court therefore ordered the parties to obtain the current evaluation from the North Carolina Local Government Employees Retirement System of the cost of purchasing the retirement contribution. The parties have done so and have filed proof that the current valuation is \$26,487.67. [Doc. 24]. They have also filed a Stipulation of Retirement Contribution Value in which they agree that this is the current cost of the retirement contribution at issue. [Id.]. During the hearing, moreover, the Plaintiff stated to the Court that in the event the Court orders the Defendant to make this payment, he would sign all necessary documents to effect the same, and stipulates to the jurisdiction of this Court to require such.

Based on the parties' submissions during the hearing and pursuant to the Stipulation, it appears to the Court that the Defendant stands ready to make the payment at issue and the Plaintiff stands ready to sign any necessary documents to insure payment thereof. That being the case, it further appears to the Court that the case should be resolved in the manner which has been agreed upon by the parties. This resolution renders moot the Defendant's pending Motion for Summary Judgment.

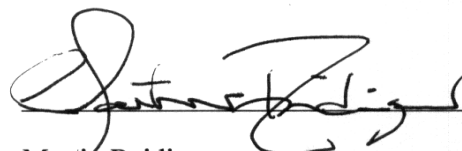
IT IS, THEREFORE, ORDERED as follows:

1. The current cost of purchasing the retirement contribution the Defendant

City of Asheville promised to pay pursuant to the March 2, 2007 Agreement executed by the Plaintiff and the Defendant is Twenty-Six Thousand Four Hundred Eighty-Seven Dollars and Sixty-Seven Cents (\$26,487.67).

2. The Defendant City of Asheville shall make payment thereof to the Local Governmental Employees' Retirement System on behalf of the Plaintiff Casey Ray Silvers.
3. The Plaintiff Casey Ray Silvers shall execute any and all documents required for the payment and processing of this amount by the Defendant City of Asheville.
4. All such actions shall be accomplished on or before October 31, 2011 and proof thereof shall be filed in this action.
5. Simultaneously with such proof, the parties shall file a Stipulation of Dismissal of this action signed by each party.
6. The parties' representations in open Court render the pending Motion for Summary Judgment (Doc. 16) moot and it is therefore **DENIED** without prejudice.

Signed: October 5, 2011


Martin Reidinger
United States District Judge

